

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Travis Casselman, #324776,)	C/A NO. 0:09-2273-CMC-PJG
)	
Plaintiff,)	
)	ORDER
v.)	
)	
J. Anthony Padula, Warden; J.J. Brooks, Jr.,)	
Asso. Warden; Ms. Melton, Business)	
Officer; Robert Ward, Regional Director;)	
L. Bracy Simmons, Mail Room Director;)	
Head of Medical Services Unknown)	
Defendant #1; Head Grievance Coordinator)	
at Lee C.I., Unknown Defendant #2,)	
M. White; all sued in their)	
official individual capacities,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Paige Jones Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On October 9, 2009, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report and a Motion to Amend on October 21, 2009.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber* , 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or rec ommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff contends in his objections that his "injury" suffered is the withholding of his mail for three days. However, this "injury" is not the type of legal injury sufficient to state a claim under *Lewis v. Casey*, 518 U.S. 343, 349 (1996). Plaintiff also states in his objections that alleged withdrawal s from his prison trust account violate his Eighth Amendment rights. This is incorrect. As stated by the Magistrate Judge, broadly construed, such actions would be a deprivation of property claim , for which there are adequate post-deprivation remedies. Therefore, Plaintiff's objections are without merit.

Plaintiff has filed a motion to amend his complaint, "to alter and amend . . . to an [] Eighth Amendment claim." Mot. at 1 (Dkt. # 13, filed Oct. 21, 2009). As this motion would not alter this court's analysis or the outcome of this complaint, it is **denied**.

This matter is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 28, 2009